

CHAPTER 353

NATURAL RESOURCES

HOUSE BILL 10-1221

BY REPRESENTATIVE(S) Curry, Fischer, Labuda, Massey, Nikkel, Roberts, Scanlan, Vigil, Frangas, Pommer, Stephens;
also SENATOR(S) Schwartz, Gibbs, Williams.

AN ACT

CONCERNING THE CONTINUATION OF THE LICENSING OF RIVER OUTFITTERS BY THE BOARD OF PARKS AND OUTDOOR RECREATION, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE SUNSET REVIEW RECOMMENDATIONS OF THE DEPARTMENT OF REGULATORY AGENCIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Repeal. 24-34-104 (41.5), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (41.5) ~~The following agencies, functions, or both, shall terminate on October 1, 2010: The function of licensing of river outfitters through the board of parks and outdoor recreation and the division of parks and outdoor recreation in accordance with article 32 of title 33, C.R.S.~~

SECTION 2. 24-34-104 (50.5), Colorado Revised Statutes, is amended to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (50.5) The following agencies, functions, or both, shall terminate on September 1, 2019:

(a) The Colorado public utilities commission, created by article 2 of title 40, C.R.S.;

(b) THE FUNCTION OF LICENSING RIVER OUTFITTERS THROUGH THE BOARD OF PARKS AND OUTDOOR RECREATION AND THE DIVISION OF PARKS AND OUTDOOR RECREATION IN ACCORDANCE WITH ARTICLE 32 OF TITLE 33, C.R.S.

SECTION 3. 33-32-112, Colorado Revised Statutes, is amended to read:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

33-32-112. Repeal of article. This article is repealed, effective October 1, 2010 AND the licensing function of the division shall also terminate on October 1, 2010 ARE REPEALED, EFFECTIVE SEPTEMBER 1, 2019. Prior to such termination, the licensing function shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 4. 33-32-102 (1), Colorado Revised Statutes, is amended to read:

33-32-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Advertise" or "advertisement" means any message in any newspaper, magazine, leaflet, flyer, or catalog, on radio, television, or a public address system, in direct mail literature or other printed material, on any interior or exterior sign or display, in any window display, or in any point-of-transaction literature which is delivered or made available to any person including a customer or prospective customer in any manner whatsoever and includes announcements or statements made in a church, school, or other noncommercial setting PRINTED MATERIALS OR ELECTRONIC MEDIA USED IN THE MARKETING AND MESSAGING OF RIVER OUTFITTER OPERATIONS.

SECTION 5. 33-32-103, Colorado Revised Statutes, is amended to read:

33-32-103. Powers and duties of the board. The board shall promulgate regulations RULES to govern the licensing of river outfitters, to regulate river outfitters, guides, trip leaders, and guide instructors, to ensure the safety of associated river-running activities, to establish guidelines to enable a river outfitter, guide, or trip leader, to make a determination that the condition of the river constitutes a hazard to the life and safety of certain persons, and to carry out the purposes of this article. The board may promulgate regulations RULES specifically outlining the procedures to be followed by the board and by the enforcement section of the division in the event of a death or serious injury during a regulated trip. THE BOARD SHALL E-MAIL A NOTICE OF EVERY PROPOSED RULE TO EACH LICENSEE. THE BOARD SHALL ADOPT RULES REGARDING NOTIFICATION TO OUTFITTERS OF CERTAIN DIVISION PERSONNEL CHANGES WITHIN TEN DAYS OF THE CHANGE AND SAFETY TRAINING STANDARDS AND CUSTOMER AND OUTFITTER INTERACTION TRAINING STANDARDS FOR DIVISION RANGERS WHO MONITOR REGULATED TRIPS.

SECTION 6. 33-32-104 (1) and (2), Colorado Revised Statutes, are amended to read:

33-32-104. License required - fee. (1) No person shall act in the capacity of a paid river outfitter or advertise in any newspaper or magazine or any other trade publication or represent himself OR HERSELF as a river outfitter in this state without first obtaining a river outfitter's license in accordance with rules and regulations prescribed by the board.

(2) An applicant for a river outfitter's license shall meet the minimum qualifications pursuant to section 33-32-105 and shall make application upon APPLY ON a form prescribed by the board. All applicants shall pay a nonrefundable license fee to be determined by the board, which fee shall be adequate to cover the expenses

incurred for inspections, licensing, and enforcement required by the provisions of this article, and shall renew such license ~~annually~~ PURSUANT TO A SCHEDULE ADOPTED BY THE BOARD upon payment of ~~said~~ THE fee. LICENSE TERMS SHALL NOT EXCEED THREE YEARS. THE BOARD MAY OFFER LICENSES THAT DIFFER IN THE LENGTH OF THEIR TERMS AND MAY STAGGER THE LENGTH OF LICENSE TERMS SO THAT APPROXIMATELY EQUAL NUMBERS OF LICENSEES RENEW THEIR LICENSES EACH YEAR.

SECTION 7. 33-32-105.5, Colorado Revised Statutes, is amended to read:

33-32-105.5. Minimum qualifications of guides, trip leaders, and guide instructors. (1) ~~Except as provided in subsection (2) of this section,~~ Individuals providing the services of guides, trip leaders, or guide instructors shall have the following minimum qualifications and such additional qualifications as the board may establish by ~~regulation~~ RULE:

(a) Guides shall be eighteen years of age or older, ~~shall~~ possess a valid standard first-aid card AND BE TRAINED IN CARDIOPULMONARY RESUSCITATION, and ~~shall~~ have ~~had~~ fifty hours of training on the river as a guide from a qualified guide instructor.

(b) Trip leaders shall be eighteen years of age or older, ~~shall~~ possess a valid standard first-aid card, BE TRAINED IN CARDIOPULMONARY RESUSCITATION, and ~~shall~~ have logged ~~a total of~~ at least five hundred river miles, OF WHICH AT LEAST TWO HUNDRED FIFTY RIVER MILES SHALL HAVE BEEN LOGGED WHILE ACTING as a qualified guide AND NO MORE THAN TWO HUNDRED FIFTY RIVER MILES SHALL HAVE BEEN LOGGED WHILE ACTING AS A GUIDE ON NONREGULATED TRIPS. MILES FROM NONREGULATED TRIPS SHALL BE DOCUMENTED AND SIGNED BY THE TRIP LEADER UNDER PENALTY OF PERJURY, AND THE LICENSEE SHALL RETAIN THE DOCUMENTS DURING THE TERM OF THE TRIP LEADER'S EMPLOYMENT.

(c) Guide instructors shall be eighteen years of age or older, ~~shall~~ possess a valid standard first-aid card, BE TRAINED IN CARDIOPULMONARY RESUSCITATION, and ~~shall~~ have logged ~~a total of~~ at least fifteen hundred river miles, of which at least seven hundred fifty ~~of those~~ river miles shall have been logged while acting as a QUALIFIED guide.

~~(2) The minimum qualifications set forth in subsection (1) of this section shall not apply to a designated faculty member of an institution of higher education in charge of water sport activity courses.~~

SECTION 8. 33-32-107 (1), Colorado Revised Statutes, is amended to read:

33-32-107. River outfitters - prohibited operations - penalties. (1) (a) No river outfitter shall operate a river-outfitting business without a valid license as prescribed by section 33-32-104 ~~and~~ OR without insurance as provided in section 33-32-105 (1) (b). Any river outfitter ~~which~~ THAT violates ~~the provisions of this subsection (1)~~ PARAGRAPH (a):

(I) Commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.;

(II) IS LIABLE FOR AN ADMINISTRATIVE PENALTY OF FIVE TIMES THE ANNUAL LICENSING FEE ESTABLISHED PURSUANT TO SECTION 33-32-104 (2).

(b) If the river outfitter is a corporation, violation of ~~the provisions of~~ this subsection (1) shall result in the officers of said corporation jointly and severally committing a class 2 misdemeanor, and said officers shall be punished as provided in section 18-1.3-501, C.R.S.

SECTION 9. 33-32-110, Colorado Revised Statutes, is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

33-32-110. Advisory committee - repeal. (1) THE BOARD SHALL APPOINT A RIVER OUTFITTER ADVISORY COMMITTEE, CONSISTING OF TWO RIVER OUTFITTERS AND ONE REPRESENTATIVE OF THE DIVISION. THE COMMITTEE SHALL REVIEW AND MAKE RECOMMENDATIONS CONCERNING RULES AND PROPOSED RULES PROMULGATED PURSUANT TO THIS ARTICLE.

(2) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2019.

(b) PRIOR TO ITS REPEAL, THE ADVISORY COMMITTEE SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

SECTION 10. 2-3-1203 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(gg) SEPTEMBER 1, 2019: THE RIVER OUTFITTER ADVISORY COMMITTEE CREATED IN SECTION 33-32-110, C.R.S.

SECTION 11. Act subject to petition - effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

(2) The provisions of this act shall apply to conduct occurring on or after the applicable effective date of this act.

Approved: June 7, 2010